IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

THURSDAY, THE 19TH JULY 2007 / 28TH ASHADHA 1929

WP(C).No. 22237 of 2007(V)

PETITIONER:

K.I.THOMAS, PALAVILA VADAKKATHIL,
KALLUMTHAZHAM P.O.,KILIKOLLOOR, KOLLAM.

BY ADV. SRI.C.UNNIKRISHNAN (KOLLAM)
SRI.S.HARIKRISHNAN
SRI.KALLADA P.KUNJUMON

RESPONDENTS:

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1. THE CONSUMER DISPUTES REDRESSAL FORUM,
KOLLAM.

2. THE REGIONAL PROVIDENT FUND COMMISSIONER
EMPLOYEES PROOVIDENT FUND ORGANISATION,
REGIONAL OFFICE, PATTOM,THIRUVANANTHAPURAM.

BY STANDING COUNSEL SMT.T.N.GIRIJA.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 19/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S. SIRI JAGAN, J.

WP(C) NO. 22237 OF 2007 -

Dated this the 19th day of July, 2007

J U D G M E N T

The petitioner filed an application before the Consumer Disputes Redressal Forum (C.D.R.F.), Kollam complaining that the pension due to him under the Employees Pension Scheme has not been paid by the second respondent. In the proceedings before the C.D.R.F., there was an order of attachment pursuant to which the second respondent was forced to deposit the amount as directed by the forum which was disbursed to the petitioner. The second respondent approached this Court and obtained Ext.P4 judgment for a direction to the C.D.R.F. to hear the matter afresh, which reads thus:-

> "The petitioner is challenging Ext.P9 order, issued by CDRF, Kollam on Execution Petition filed by the 1st respondent, attaching Rs.1,09,478/- from the accounts maintained by the petitioner with the 4th respondent Bank and directing the Bank to deposit the attached amount with the CDRF. I feel, even if the 1st respondent is heard in the matter, this Court has to interfere with Ext.P9 order for the reasons stated below. If notice is issued to the 1st respondent, the same will only cause expenditure to him and delay in

> completion of Execution Petition. The impugned order is seen passed in the E.P., which is pending before the CDRF. Therefore, I proceed to dispose of the matter without issuing notice to 1st respondent. The C.D.R.F. in E.P. should first determine the actual amount payable under the award after hearing petitioner also. I do not find any justification for advance attachment of the bank account of a Central Government agency before even determining actual amount payable because attachment is required only when recovery is otherwise difficult. The writ petition is, therefore, allowed vacating Ext.P9 but with direction to the CDRF to hear the petitioner's objections in the E.P. filed by the 1st respondent and pass order determining the amount payable by the petitioner within six weeks from today. There shall be a direction to the petitioner to deposit the amount determined by CDRF within a week from the date of their order failing which CDRF will inform the matter to this Court through the High Court Registry. Petitioner will produce judgment and co-operate in the proceedings before CDRF."

Now, pursuant to the same, the Forum has passed Ext.P5 order directing the petitioner herein "to refund an amount of Rs.1,09,478/- before the Forum and the second respondent herein to deposit the above amount before the Forum". Ext.P5 is under challenge in this writ

petition. The contention of the petitioner is that the Forum does not have jurisdiction to pass orders like Ext.P5.

2. I have heard learned counsel for the petitioner as well as the learned Standing Counsel for the Provident Fund Organisation.

3. In the facts and circumstances of the case, the writ petition is disposed of as follows:-

The Forum shall consider the matter afresh and pass final orders taking into account the contentions of both sides and decide the matter as directed in Ext.P4 judgment, without insisting on the petitioner depositing the amount as directed in Ext.P5. However, if ultimately the Forum finds that the entire amount or any part thereof is liable to be repaid by the petitioner, the petitioner shall repay the amount as directed by the CDRF.

Sd/-
S. SIRI JAGAN,
Judge

Mbs/

S.SIRI JAGAN, J

W.P.(C) NO. OF 2001

J U D G M E N T

DATED:01-06-2007